

LAND USE, LOCAL AGENCY & PUBLIC PARTICIPATION WORKSHOP SUMMARY

INTRODUCTION

In the morning of March 8, 2001, the California Energy Commission (Energy Commission) conducted the Land Use Issues Workshop to discuss land use review procedures, local land use plans and local agency participation that affect the licensing of future powerplants by the Energy Commission. A volunteer panel, comprised of members of local agencies and energy industry representatives, discussed land use issues associated with powerplant licensing, information needed to develop appropriate actions, and the methods to avoid land use constraints to the licensing of future powerplants.

In the afternoon of March 8, 2001, the California Energy Commission (Energy Commission) conducted the Local Agency and Public Participation Workshop to discuss public and local agency participation in licensing future powerplants by the Energy Commission. A volunteer panel, comprised of members local agencies, intervenors and the electricity industry, discussed the information needed to facilitate public local agency participation, and develop appropriate actions, if any, to improve the Energy Commission licensing procedures.

OVERVIEW OF THE MORNING PANEL ON LAND USE

In opening comments, Commissioners Laurie and Pernell explained the purpose of the morning Workshop was to gather as much information as possible to examine potential barriers to long-term licensing of powerplants.

STAFF PRESENTATION

Eileen Allen, Supervisor for the Energy Commission's Land and Traffic & Transportation Unit, provided an overview of land use and powerplant siting issues that the state is currently evaluating. Mr. Patrick Angell, of Pacific Municipal Consultants summarized the staff's overview entitled "Land Use Issues That May Affect Siting New Powerplants In California", dated February 22, 2001. Mr. Angell's summary included: 1) description of land use considerations currently evaluated as part of the Energy Commission's powerplant review; 2) description of applicable provisions of the Warren-Alquist Act related to laws, ordinances, regulations, and statutes (LORS) of local jurisdictions; 3) discussion of environmental justice considerations; and 3) discussion of land use constraints associated with land use compatibility, infrastructure requirements (e.g., extension and expansion of services), and compatibility issues with urban and rural sites. Mr. Angell stated that land use issues can vary widely depending on the local jurisdiction and the site in question, and that land use constraints also involve issues associated with compliance with applicable land use LORS. The level of participation of the local agency in the licensing powerplant process also varies.

Finally, a series of recommendations for improving the way in which land use issues are addressed in a siting case were identified in the paper, which included the following:

- Establish an early agency consultation process with local, regional, state and federal agencies potentially affected by a proposed powerplant project in order to identify land use and LORS issues prior to completion of the data adequacy process for applications for certification (AFCs). This process could also be used to identify alternative powerplant sites considered acceptable by the affected agencies.
- Provide workshops or information sessions for affected land use agencies regarding how the Energy Commission powerplant permitting process works and how the agency can provide input.
- Offer assistance to local and regional agencies in the development of programs that identify power needs on a regional basis (e.g., Sacramento Metropolitan area) as well as land areas appropriate for siting powerplants and related linear facilities.
- Encourage local land use agencies to consider power needs of the community in their land use and planning activities (e.g., general plan and specific plan development processes and associated zoning ordinances).

MS. ROSEANNE CHAMBERLAIN, EL DORADO COUNTY LOCAL AGENCY FORMATION COMMISSION

Ms. Roseanne Chamberlain provided a presentation outlining the powers and duties of Local Agency Formation Commissions (LAFCOs) and how LAFCOs and the Energy Commission's powerplant licensing process may interface. Ms. Chamberlain identified that LAFCO is generally a boundary regulatory commission and is likely the most misunderstood government agency in the state. LAFCOs have only indirect land use authority and it has substantial planning powers that it administers through spheres of influence and regulation of service provider agencies. LAFCOs are a small piece in regulation of land uses. However, they could have a significant role in powerplant licensing, if the adequacy of services to be provided by local agencies (e.g., wastewater and water supply) to support a powerplant are at issue. Ms. Chamberlain noted that a frustrating issue for LAFCOs is that California Environmental Quality Act (CEQA) environmental documents on development projects often do not address LAFCO actions, which make these environmental documents unusable by LAFCO. LAFCO's review powers and authorities were expanded in 2000 under AB 2838. LAFCO actions now require consideration of water supply, which could impact powerplant licensing. Government Code Section 56434 provides for cooperation among LAFCOs across county boundary lines to address public service provision issues that could come into play on a powerplant project. Ms. Chamberlain identified that LAFCOs should be included early in the powerplant licensing process.

As part of Ms. Chamberlain's presentation, she identified some circumstances under which the State should consider legislation such that the Energy Commission should provide "special status" for LAFCOs, when commenting on proposed LAFCO actions that may impact powerplant siting. Ms. Chamberlain also identified that there are a number of bills associated with improving the electrical supply situation in the State that would streamline and improve the LAFCO process, as well as a desire for the State to clarify LAFCO's role in considering and cooperating on powerplant projects.

Commissioner Pernell asked about potential LAFCO involvement in powerplant licensing and whether LAFCOs have ever intervened on a powerplant project. Ms. Chamberlain identified that LAFCOs would be concerned with service provision and that LAFCOs have been involved on powerplant projects under the Energy Commission.

MS. YVONNE HUNTER, LEAGUE OF CALIFORNIA CITIES

Ms. Yvonne Hunter identified that local land use control is sacred to cities and counties and identified initial concerns of the League regarding AB 9x associated with the designation of powerplant sites. She provided a summary of an article from the Sacramento Bee dated January 28, 2001 regarding the impression that local agencies were to blame for delays on new powerplant licensing. Ms. Hunter identified that local agencies are not solely responsible. Ms. Hunter also expressed concerns regarding potential consideration of amending Section 25525 of the Warren-Alquist Act to delete the requirement that a project conform to local or regional LORS.

Regarding Workshop Question, Issue 1 (What land use issues potentially constrain energy development in California?), Ms. Hunter responded that it has not been the role of local agencies to plan for energy facilities, and that, that responsibility has generally been the Energy Commission's pursuant to the Warren-Alquist Act. Ms. Hunter did not feel that the inclusion of energy elements in a general plan was appropriate and that general plans already include provisions for energy siting as part of land use designations and zoning. She also identified that environmental justice issues are relevant for the Energy Commission to consider, but vary from land use issues and tend to be more complicated.

Regarding Workshop Question, Issue 2 (Are sufficient avenues available to the public and local agencies to provide input to the process?), Ms. Hunter said that local agencies are willing to work in conjunction with the Energy Commission on powerplant projects and that the Energy Commission needs to educate local agencies on the powerplant licensing process. Ms. Hunter recommended that the Energy Commission conduct community forums to educate local agencies. Ms. Hunter identified that there appears to be sufficient avenues for local agencies to provide input into the powerplant licensing process. However, she expressed concerns regarding proposed SB 28x that would limit the amount of time public agencies can comment on powerplant projects. Ms. Hunter also identified that there are differing land use issues associated with powerplant siting in urban areas versus rural areas.

Regarding Workshop Question, Issue 3 (What measures could be implemented to address issues earlier in the application process or to assist applicants in addressing public or local agency concerns?), Ms. Hunter identified that it is the Energy Commission's responsibility to educate applicants to understand the process in California, including local land use control.

MR. GREG FUZ, CITY OF MORRO BAY

Regarding Workshop Question, Issue 1 (What land use issues potentially constrain energy development in California?). Mr. Greg Fuz provided a brief overview of the coordination that has occurred between the City of Morro Bay, Energy Commission staff and the applicant for the Morro Bay Project. Mr. Fuz identified that the City of Morro

Bay considers early coordination between local agencies, the Energy Commission and the applicant to be critical to a successful process. This early coordination involved development of a reimbursement agreement between the City and the applicant to provide the City with the resources necessary to adequately participate, as well as, a pre-application process to address issues between the City and the applicant.

Regarding Workshop Question, Issue 2 (Are sufficient avenues available to the public and local agencies to provide input to the process?) and Issue 3 (What measures could be implemented to address issues earlier in the application process or to assist applicants in addressing public or local agency concerns?), Mr. Fuz identified that reimbursement agreements between local agencies and applicants, as part of a pre-application process, would be helpful in addressing local issues through the Energy Commission. He recommended that the Energy Commission consider a policy and/or encourage applicants to establish reimbursement agreements with local agencies. Mr. Fuz identified that a local agency's role in the Energy Commission licensing process is unclear (e.g., are local agencies advisory to the Energy Commission? What is the appropriate time for local agencies to inject themselves into the process?). He recommended a public agency ombudsman or an assistant to the Public Adviser to focus on public agency coordination. Mr. Fuz also recommended that some sort of incentives program be provided to local agencies to assist in licensing of new powerplant projects.

Mr. Fuz also identified that powerplant projects can result in direct and indirect social and economic impacts, such as: 1) the loss of tourism, construction impacts, housing and public service impacts due to worker relocation.

MR. TOM LAST, SUTTER COUNTY

Mr. Tom Last described Sutter County's concerns regarding the Energy Commission's powerplant licensing process based on the County's experience with the Calpine Sutter County powerplant project. Mr. Last's comments generally related to Workshop Question, Issue 2 (Are sufficient avenues available to the public and local agencies to provide input to the process?) and Issue 3 (What measures could be implemented to address issues earlier in the application process or to assist applicants in addressing public or local agency concerns?). He expressed concerns regarding the number and format of meetings that the Energy Commission conducts on powerplant projects. The "trial" format of meetings and workshops tend to be intimidating, confusing and hostile for the public. Mr. Last identified that the format of the meetings appears to require attorneys that the public and local agencies often can't afford. He recommended that the meetings be fewer and more informal and that the process be modified to provide clear periods when comments are received to force participants to focus their comments.

He expressed concerns regarding manipulation of the licensing process by groups that do not have actual land use or environmental concerns. Mr. Last also identified issues associated with coordination with other permitting agencies and the timing associated with receiving their approvals. He recommended that coordination should occur with federal agencies to ensure process streamlining occurs at all levels.

Mr. Last identified that during the processing of the Sutter County powerplant project, there were difficulties coordinating with the Energy Commission project manager and Energy Commission staff. He identified that the project manager did not appear to have control over the analysis provided in the staff assessment (the accuracy of this statement was verified during the morning Workshop). This caused problems when the County believed that Energy Commission staff misinterpreted the local ordinances of the County.

Mr. Last identified timing issues associated with completion of the powerplant licensing process by the Energy Commission and local agency land use approvals that require the use of the Energy Commission's environmental document. He recommended that the Energy Commission consider developing an agreement with the local agency that specifies how the Energy Commission and local agency approval process will work upon receipt of the application.

Regarding siting issues, Mr. Last identified that the Energy Commission should consider providing incentives to those applicants and/or local jurisdictions that have potential powerplant sites, but inadequate infrastructure facilities to serve it.

DR. PETE MASON, CALPINE/BECHTEL

Dr. Pete Mason summarized issues associated with powerplant siting, generally related to Workshop Question, Issue 1 (What land use issues potentially constrain energy development in California?). He provided an overview of powerplant siting work that an applicant typically does and how that work is incorporated into the application to the Energy Commission. Dr. Mason identified that fuel source, water source, connection to the transmission system and environmental justice issues are key items to consider for powerplant siting. He specifically identified land use as a "bedrock" issue as to whether a community wants a project. Dr. Mason identified that powerplant projects are often caught up in larger growth and development issues that are occurring statewide.

Regarding local land use regulations, Dr. Manson expressed the opinion that it is not necessary for a local agency to have specific development standards and zoning for powerplants, and that design issues are best worked out with each project. He also identified that powerplant siting associated with urban versus rural areas is also a challenge given typical concerns in existing urban areas and the effect of urbanization of rural areas.

Dr. Mason recommended working with local agencies on powerplant proposals prior to submitting an application to the Energy Commission. He also recommended identifying potential powerplant sites that have adequate infrastructure, have minimal land use constraints, are buffered or protected from future land uses conflicts, and to use existing brown-field sites for powerplant development.

PUBLIC COMMENT

Mr. Joe Rowley, Sempra Energy Resources

Mr. Rowley expressed support for the concept of having the Energy Commission use existing environmental impact reports (EIR), which address environmental issues

associated with a powerplant site. Mr. Rowley stated that the goal should be to avoid redundancy and streamline the process.

SUMMARY OF THE ANSWERS TO THE QUESTIONS RAISED IN THE COMMITTEE'S WORKSHOP NOTICE

Issue 1: What land use issues potentially constrain energy development in California?

1. *What actions does the Energy Commission need to take to address land use conflicts?*
 - a. *Are the State energy needs addressed in local land use plans?*
 - b. *Should local general plans incorporate energy elements that contain policies that facilitate the siting of energy infrastructure?*

While cities and counties are not required under State Planning and Zoning Law (Government Code Sections 65000 *et al.*) to provide energy elements or ordinances in their general plans or land use regulations, there are no state laws or standards that restrict such actions. Some local agencies do consider and plan for energy facilities in their jurisdictions. Local agencies have the ability to develop land use plans and development standards to consider and facilitate energy needs. During the morning Workshop, Ms. Hunter of the League of California Cities expressed the opinion that requiring energy elements as part of general plans was not appropriate. Dr. Mason from Calpine/Bechtel identified that the provision of specific development standards for powerplants may not be appropriate and was best addressed at the project-specific stage.

2. *Can the Energy Commission rely on local general plan environmental reviews as the bases for conclusions in siting cases?*

Depending on the level of detail and age of local agency environmental documents, some analyses provided in local agency general plan EIRs and other environmental documents can be utilized in considering powerplant siting. However, this needs to be considered on a case-by-case basis. Some issues, such as agricultural land loss, may have been already adequately addressed and need not be addressed again by the Energy Commission. Mr. Rowley, from Sempra Energy Resources supported the use of local agency environmental documentation as a way to streamline the process.

3. *How can general plan amendments, zoning changes and variances required for energy projects be expedited?*

Local agency land use actions associated with powerplant projects could be expedited. However, the ability to expedite would be on a case-by-case basis and would need to be negotiated with the affected local agency. Early coordination with local agencies was suggested by Mr. Fuz, Mr. Last and Dr. Mason.

4. *How can the State's need to ensure reliability of the energy system be balanced with local control over land use decisions?*

As identified in the staff paper "Land Use Issues That May Affect Siting New Powerplants In California", February 22, 2001, and by the panel members, pre-application/early consultation with local, regional, state and federal agencies should be conducted to identify and resolve issues prior to the formal submittal of applications to the Energy Commission. Such early consultation would streamline the process. Other recommendations identified in the staff paper and by the panel members include: clarifying the ability of local agencies to enter into reimbursement agreements with applicants;; outreach specifically to local agencies to assist them understand the licensing process; and coordination with the Energy Commission and the local agencies in identifying and designating desirable sites for powerplants.

5. *Is there a need for long-term planning for energy facilities?*

Energy facilities are as essential to cities and counties as are water supply and wastewater facilities. Given the current and the expected long-term growth in the state, there is a need to consider long-term planning for energy facilities. However, unlike water supply and wastewater facilities and services that are typically considered by a local or regional agency, consideration of electrical service facilities varies widely throughout the state. In addition, powerplant projects are approved by both the Energy Commission (over 50 megawatts) and local agencies do not have prior knowledge of where or when these project may be proposed.

Given these conditions, there is no current coordinated approach statewide to plan for future energy demands. As identified in the recommendations of the staff's land use issue paper, the Energy Commission should consider offering assistance to local and regional agencies in the development of programs that identify power needs on a regional basis as well as identify land areas appropriate for energy facilities.

OVERVIEW AFTERNOON PANEL ON LOCAL AGENCY AND PUBLIC PARTICIPATION

The local agency and public participation component of the workshop was conducted in the afternoon of March 8, 2001. No issue paper had been prepared specifically for the local agency and public participation issue area, and no formal staff presentation was made.

MS. ROBERTA MENDONCA, ENERGY COMMISSION PUBLIC ADVISOR

Ms. Roberta Mendonca, the Energy Commission's Public Advisor, stated that the position of the public advisor was created by the Warren-Alquist Act. The Public Advisor does not have a role as a decision maker, nor is the position created to provide technical analysis. Ms. Mendonca said that the Public Advisor position was established to provide members of the public with an understanding of the process, timing of the

licensing process, and direction as to where they might focus their energy to make their comments most effective. Ms. Mendonca stated that the Energy Commission decisions have been better as a result of the public's participation and comments. This is true both with regard to general issues, as well as technical issues. Intervenor comments have, in the view of Ms. Mendonca, improved projects by encouraging a voluntary change in the type of cooling, a change in project footprints, and through the monitoring of air quality.

Ms. Mendonca distinguished between intervenors that may have legal counsel, and public participants who are not presented by legal counsel. The number of public appears to increase in siting cases in urban areas. The issues that the public are most concerned about in siting cases include water, air quality, and public health. In the more urban and smaller communities, visual resources and noise are also important. In urban areas, the public believes there may be preexisting toxic conditions that will affect public health, and that a new project will only make conditions worse. Ms. Mendonca said these issues were generally reviewed as part of the Energy Commission's staff environmental justice analysis.

Those who participate in siting projects include neighbors, people looking for a job, neighborhood groups, or public interest organizations, such as the Sierra Club or Audubon Society. Sometimes the participant is an environmental watchdog group, or community action groups, such as Communities for a Better Environment, or SAGE. In some cases, a local community will participate, and sometimes intervene. In one case a state agency, the Department of Parks and Recreation, intervened.

Ms. Mendonca identified that improvements in the noticing process could improve public participating in the process. While a legal notice is required to landowners within certain distances of the site or linear facilities, there may be a far larger group of people just beyond that boundary that believe they may be indirectly impacted by the project or have other interests in the approval of the project. Ms. Mendonca also noted that the number of people provided notice may not correspond to the level of controversy on the case. In one instance she noted, a very contentious case had a mailing list of 52 people, while a non-controversial case had a mailing list of 4,000. The noticing requirements should be refined to ensure the public potentially directly and indirectly affected by the project are noticed. Ms. Mendonca said that the most frequent complaint from the public is that they had not heard about the project prior to the hearings or final decision.

The Public Advisor has initiated a program to provide siting case materials in public libraries. The Energy Commission is required to send a copy of the Application for Certification to five libraries throughout the state, and, in addition, such materials are provided to local libraries. The Public Advisor has also undertaken efforts to train library personnel in internet skills to enable them to access the Energy Commission materials online. Videos would be of assistance, and the Public Advisor has also made efforts to translate Energy Commission materials into Spanish to facilitate communication.

While Ms. Mendonca did not believe that the number of meetings held in licensing proceedings was an impediment to public participation, she suggested that the agenda and hearing process be modified to ease such access. Allowing public comment at the

beginning of the hearing, and scheduling certain matters on a time certain basis, would be positive steps.

MR. TED JAMES, KERN COUNTY

Mr. Ted James indicated he had extensive experience with the Energy Commission staff in dealing with siting issues related to power plants, and views the relationship as very good. He noted that Kern County has a strong economy based on oil and gas production, with a lot of cogeneration activity. Kern County has large rural, undeveloped areas, and the majority of the power plants have been located away from urbanization.

Mr. James confirmed earlier workshop comments regarding the importance of local government and their ability to manage their own land use affairs. Mr. James commented on a partnership approach as being desirable. Mr. James expressed concern that recent efforts by the Energy Commission to expedite the siting process could backfire if the public were to perceive that corners were being cut. He felt this could be avoided by a greater emphasis on local issues in Energy Commission documents. Siting proceedings should be sensitive to local concerns, including issues usually raised through the CEQA process. Local zoning or general plan programs should also be dealt with during the hearing process.

Mr. James recommended that Energy Commission staff be encouraged to use local government's knowledge of land use issues and the identity of special interest groups. Involving local government at the early stages of the siting process would help to focus the applicant's attention on such issues. Of special concern to local agencies is the impact on neighboring land uses. Public access is one example of an issue that can be dealt with by the local agency. Forums to assist Energy Commission staff in understanding local issues, as well as assisting local governmental staff in the understanding of Energy Commission processes, would also be worthwhile.

Mr. James said that local governments are impacted by the issues raised during the siting proceedings and by requests for information from the applicant, staff and intervenors. Mr. James expressed concern that the staffing needed by the local agencies may not be adequate to respond effectively during the siting proceedings. Grants to local agencies to provide appropriate staffing should be considered. Early funding to support early meetings between the local agency and applicants and Energy Commission staff would also be helpful.

Mr. James encouraged the Energy Commission to use the local agency input when developing strategies for public participation. He also suggested that delegating some or all of the environmental review to the local agency, with appropriate funding and indemnification, could be explored, perhaps through a local equivalent certification program. Mr. James encouraged the Energy Commission to rid the siting process of reviews redundant to local agency actions. Review by two or more governmental agencies regarding the same issue takes time. Mr. James suggested that the Energy Commission support the establishment of mitigation cookbooks, which would clearly identify the applicant's responsibilities, and identify the alternative methods of mitigating impacts.

MS. KATHLEEN LIVERMORE, CITY OF FREMONT

Ms. Livermore stated that the City of Fremont has various interests in siting cases. These include the City's interest in keeping residents and businesses informed of the proposal and in seeing that uninterrupted power is provided.

Ms. Livermore expressed concern in situations where a site is proposed in one community, but an alternative site is identified in Energy Commission documents in another. Ms. Livermore was concerned that the analysis she reviewed did not clearly or adequately explain the potential constraints to developing the alternative site. She believed that staff alternatives analysis was misleading, but did not recommend the City of Fremont file formal testimony in response to staff's testimony, since staff's testimony could not be used to approve a project in Fremont.

Ms. Livermore stated that providing notice to local residents and interest groups is something the local agency is well positioned to undertake. The City has identified public interests and local interest groups as a result of work on other projects in its jurisdiction. While a simple ad in the newspaper may satisfy the minimum legal requirements, it will not reach the same network of individuals that might be contacted by the local agency.

MR. CHRISTOPHER ELLISON, ELLISON & SCHNEIDER Mr. Christopher Ellison is an attorney who indicated he previously worked at the Energy Commission, and is now engaged in private practice, representing applicants before the Energy Commission. As one of those who was present at the Energy Commission when the public participation process was developed, Mr. Ellison indicated there were four primary goals: (1) Inform the decision maker; (2) Provide a fair opportunity for public comment; (3) Provide a timely decision; and (4) Promote public understanding and acceptance of the decision eventually rendered.

Mr. Ellison said that the one-stop process provided for by the Warren-Alquist Act is a unique process. While he does not believe the process is broken, he suggested that current process might not best serve the public. He said that the public is far more familiar with local agency processes including hearings before the planning commissions and hearings on Environmental Impact Reports. This contrast the far more legalistic process followed by the Energy Commission, which includes the taking of sworn testimony and cross-examination of witnesses. Consequently, the public prefers the local agency processes since they are more familiar. The Energy Commission process, from the lay person's perspective, requires an enormous investment of time. Mr. Ellison suggested that the Energy Commission consider a change to a process closer to the notice and comment process followed under CEQA. Mr. Ellison indicated that the Energy Commission process sometimes promotes feelings by people that they are aggrieved. The process itself, according to Mr. Ellison, sometimes deters communication, and fails to identify the public benefits to be achieved by the project.

MR. GREG FUZ, CITY OF MORRO BAY

Mr. Greg Fuz indicated that early consultation with the local agency to identify any fatal flaws in a project would be very beneficial. Mr. Fuz said that the local agency has

substantial resources that it can use to assist the Energy Commission to identify local interest groups in the community, and provide notification of project events to these groups. Providing adequate resources for early local agency participation would enable the local agency to work with the Energy Commission to involve stakeholders in the process. The local agency could organize public involvement in siting cases, as well as provide critical review of development issues and evaluate proposed mitigation strategies. Such a process would assist in setting the project in the right direction early in the process. In Morro Bay, this was done through a memorandum of understanding between the City and applicant that identified key goals and common interests. The public process involved over a dozen meetings. The City also followed a pre-application process, and sponsored an advisory ballot measure. This was all done prior to the filing of the AFC.

Mr. Fuz identified several issues in which other local agencies were involved in the decision-making process. He suggested that, with the City's experience in dealing with such agencies, the city could act as a liaison to the Energy Commission staff in communications with such agencies, including the Coastal Commission. Following certification, Mr. Fuz indicated the City is in an ideal position to follow up with the monitoring program and permit compliance.

MR. MARK WOLFE, CALIFORNIA UNIONS FOR RELIABLE ENERGY (CURE)

Mr. Mr. Wolfe commented that the trial-like process followed by the Energy Commission has benefits. Mr. Wolfe stated that he believed the public has a meaningful role in the current process, and that the process also provides an avenue for participation by other groups, such as CURE. Mr. Wolfe stated that the current crisis should not result in a curtailment of the public participation process.

PUBLIC COMMENT

Ms. Joan Wood, Farm Owner-Sutter County

Ms. Joan Wood identified herself as a small farm owner in Sutter County. Ms. Wood indicated she had not received notification of the Sutter Power Project from the Energy Commission. She said she had been informed that representatives of Sutter Power had entered into conversation with the county two or three years before the certification process started. She said she felt that the parties had already agreed that the project would be built on the proposed site prior to her receiving knowledge of the powerplant. She encouraged the Energy Commission to provide adequate notice to those landowners that would be affected directly and indirectly by the project. Ms. Wood also questioned whether the urban effects of a power project on farming interests are adequately considered in siting cases.

Dr. Pete Mason, Calpine/Bechtel

Dr. Pete Mason said that the Energy Commission process is basically sound. The decisions result from a clear, objective process. The process enables the disclosure of the facts of the case, which then becomes the basis for the decision. Dr. Mason suggested discussions with the Nuclear Regulatory Commission might be helpful.

Christopher Ellison, Ellison & Schneider

Mr. Ellison suggested that the Energy Commission may wish to compare its licensing process to similar licensing processes in other states or elsewhere. While the Energy Commission process may be considered long and complicated, litigation tends to be limited.

Mark Wolfe, California Unions For Reliable Energy (CURE)

Mr. Wolfe suggested that the Energy Commission licensing process avoids local agency political issues that can impact the process.

**ANSWERS TO THE QUESTIONS RAISED IN THE COMMITTEE'S
WORKSHOP NOTICE**

Issue 2: Are sufficient avenues available to the public and local agencies to provide input to the process?

1. What are the key concerns expressed by the public and local agencies?

The public has concerns with environmental or health related issues such as air quality, water quality, public health, visual and noise. In general, it seems that the process is not like public participation efforts of local agencies and is unfamiliar. Local agencies expressed a concern that the existing process does not allow for their early involvement or advise regarding local issues and interest groups.

a. Does geographic location, rural versus urban environments, local demographics or size of municipality influence the type or nature of questions/concerns?

Based on the workshop presentations, the speakers did identify some differences between the rural versus urban environments with regard to population size. One speaker noted that more members of the public attend public meetings in urban areas because of the higher concentration of people affected by the project.

b. Do comments that are made by individuals, intervenors, and agencies specifically address the proposed power plant or do comments address broader issues (e.g., indirect impacts of a project, or community land use development concerns)?

Speakers did not specifically address this question. There was some discussion however with regard to comments providing valid input into the decision-making process. It does appear from the comments that some of the comments made by the public represent indirect impacts of the project.

c. Have local agencies and public comments resulted in projects that better address community concerns and objectives?

See response to (b) above. In general, comments made by intervenors have resulted in better projects that better address community concerns.

2. *At what levels can the public and local agencies participate?*
 - a. *Who typically participates and what is their level of interest?*

Environmental interest groups, community interest groups, local agencies and members of the public.

- b. *Does geographic location, rural versus urban environments or size of municipality influence the level of involvement or participation by either the public or local agencies?*

Geographic location, rural versus urban or size of municipality does not influence the level of involvement. There is a general high level of interest for energy projects and the area they will serve.

Issue 3: What measures could be implemented to address issues earlier in the application process or to assist applicants in addressing public or local agency concerns?

1. *What mechanisms are available to identify issues of concern early in the application process?*
 - a. *More defined plans at pre-application meetings?*

Some of the speakers suggested that more information early on about a project and involving local agencies and the public at an early stage in the project would result in better projects.

- b. *Should the Energy Commission conduct community meetings early in the process to educate agencies and the public on the process and to scope issues regarding approval of the project?*

Yes. Early involvement of local agencies and the public would be beneficial to all parties.

- c. *Should the Energy Commission conduct program-level siting studies to assess potential concerns from local jurisdictions?*

While a program-level assessment was not specifically identified there was some discussion about involving local agencies at an early stage to identify local interest and concerns regarding the project and strategy on the best approach for public involvement. In addition, there was a suggestion that partnering with a local agency would be a good approach.

2. *How can the process be made accessible to the public and agencies, and ensure that their comments and concerns are addressed expeditiously?*

There was some discussion about the CEC's CEQA and application review process as being complex and unfamiliar to most members of the public. A suggestion was made to consider a process similar to the manner in which local agencies adopt CEQA documents and review project applications. However, even

with the CEC's process there has been involvement of interest groups and the public in the application review process.

STAFF RECOMMENDATIONS BASED ON WORKSHOP DISCUSSIONS

LAND USE RECOMMENDATIONS

1. Establish an early agency consultation process with local, regional, state and federal agencies potentially affected by proposed powerplant projects in order to identify land use and LORS issues prior to completion of the data adequacy process for AFCs. This process could also be used to identify alternative powerplant sites considered acceptable by the affected agencies.
2. Provide workshops or information sessions for affected land use agencies regarding how the Energy Commission's powerplant permitting process works and how the agencies can provide input.
3. Offer assistance to local and regional agencies in the development of programs that identify power needs on a regional basis (e.g., Sacramento Metropolitan area) as well as land areas appropriate for siting powerplants and related linear facilities.
4. Encourage local land use agencies to consider power needs of the community in their land use and planning activities (e.g., general plan and specific plan development processes and associated zoning ordinances).
5. Review local agency and public participation reimbursement regulations and/or develop guidelines to facilitate participation in the siting process.
6. Direct the Energy Commission staff to initiate early public agency coordination for powerplant licensing projects.
7. Consider re-structuring Energy Commission meetings and workshops to provide for easy input and comment from the public and affected public agencies.
8. Provide financial incentives or assistance to local agencies and/or applicants to assist in extending infrastructure to desirable powerplant sites.

LOCAL AGENCY AND PUBLIC PARTICIPATION RECOMMENDATIONS

1. The Energy Commission should direct its staff to conduct early meetings with local agencies to identify issues of concern to the agencies and the public.
2. The Energy Commission should direct its staff to request assistance from local agencies in notifying the public of the project.
3. The Energy Commission should direct its staff to work with local agencies in the preparation of analysis of the project, and where appropriate, use existing local agency documents or analysis to support the staff's assessments of the project.
4. The Energy Commission should consider whether a process similar to the California Environmental Quality Act environmental impact report or a process

similar to that used by local agencies to issue a conditional use permit would be appropriate. The Energy Commission should consider whether the trial-like features of the existing siting process could be reduced to facilitate public participation.

5. Evaluate local agency and public participation reimbursement regulations and/or guidelines to facilitate participation in the siting process.

